



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

05

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,495	10/19/2001	Mark Kroll	VT0314-US1	9717
24473	7590	12/01/2004	EXAMINER	
STEVEN M MITCHELL PACESETTER INC 701 EAST EVELYN AVENUE SUNNYVALE, CA 94086			JASTRUZAB, JEFFREY R	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/045,495	KROLL ET AL.
	Examiner	Art Unit
	Jeffrey R. Jastrzab	3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 6/15/04 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

Claims 1, 9 and 17 stand rejected under 35 U.S.C. 102(a) as being clearly anticipated by KenKnight et al #6266563 for the reasons set forth in the previous office action.

Applicant argues primarily that the KenKnight reference does not teach how the timing of the antitachycardia pacing is to be controlled. This is not persuasive. In column 9, KenKnight describes multiple possible pairings of electrodes for delivering the desired therapies which includes a first stimulation in a first area and a second stimulation in a different area, e.g. C to D and then B to D, aka right ventricle then left. Further, in column 11, different therapy adaptations are discussed which include recording right and left ventricle electrograms, i.e. recording between B and C and a common electrode to separately feed electograms to a sensing module to determine the "optimum time for the defibrillation shock". Although this applies to high voltage shocks, clearly KenKnight intends for defibrillation, cardioversion, and ATP to be interchangeable per column 6 lines 1 and 2. As such, KenKnight continues to apply to the above claims. This rejection is hereby made FINAL.

Claim Rejections - 35 USC § 103

Claims 2-6, 8,10-14 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over KenKnight et al #6266563 in view of Thompson et al #5902324 for the reasons set forth in the previous office action.

The Examiner stands by the previous Examiner's comments with respect to the exchangeability of electrode configurations in pacing systems. The claimed "shorting" appears to merely amount to bipolar delivery and sensing which is notorious in the art with or without the Thompson and Hartlaub (below) teachings.

Claims 2-7 and 10-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over KenKnight et al # 6266563 in view of Hartlaub #6134470 for the reasons set forth in the previous office action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

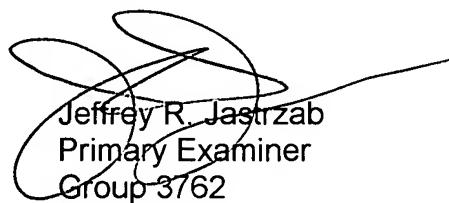
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3762

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Jastrzab whose telephone number is (571) 272-4947. The examiner can normally be reached on Monday through Wednesday from 5:30am to 2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angie Sykes, can be reached on (571) 272-4955. The fax phone number for this Art Unit is (703) 872-9306.


Jeffrey R. Jastrzab
Primary Examiner
Group 3762

November 29, 2004